

September 29, 2014

Via E-mail

Mr. Zaffar Eusuff  
California Department of Water Resources  
Division of Integrated Regional Water Management  
Financial Assistance Branch  
Post Office Box 942836  
Sacramento, CA 94236

Muzaffar.Eusuff@water.ca.gov

RE: Comment Letter Regarding DERWA Phase 3 Recycled Water Expansion Project - 2014  
Drought Grant Solicitation Draft Funding Recommendations

Dear Mr. Eusuff:

I am commenting on behalf of the East Bay Municipal Utility District (EBMUD) to strongly encourage the Department of Water Resources (DWR) to reverse its incorrect draft IRWM funding recommendation disqualifying the DERWA Phase 3 Recycled Water Expansion Project due to noncompliance with the California Statewide Groundwater Elevation Monitoring (CASGEM) Program. The DERWA project was included in the Association of Bay Area Governments' application for the San Francisco Bay Area for \$4M to implement the Phase 3 Recycled Water Expansion Project.

DERWA is a joint powers authority created in 1995 to manage and implement the DERWA/San Ramon Valley Recycled Water Program in the Tri Valley area. As stated in DERWA's comment letter, DERWA's project and regional service area overlies the Livermore Valley Groundwater Basin that is in compliance with the CASGEM program and does not overlie the portion of the East Bay Plain Basin that is allegedly not in compliance with CASGEM, see Figure 1. In addition, DERWA is a distinct entity, separate and apart from EBMUD. Any CASGEM compliance issues regarding the East Bay Plain Basin, which underlies part of EBMUD's service area and does not overlap with DERWA's regional service area, should not be imputed to DERWA.

In previous discussions between EBMUD and DWR earlier this year, EBMUD inquired how DWR will determine funding eligibility based on CASGEM compliance criteria. DWR management staff replied that if a project did not overlie a CASGEM noncompliant basin, it would be eligible for funding regardless of whether an entity receiving grant funding had a service area that overlies such a noncompliant basin. They further clarified that in EBMUD's case, projects that seek funding that lie outside of the north subbasin of the East Bay Plain Basin would be deemed eligible for funding. Attached are the meeting minutes documenting the discussion on August 22, 2014 and DWR's reply. DWR staff in attendance at the August 22, 2014 meeting included Gary Bardini (Deputy Director), Tracie Billington (Financial Assistance Branch Chief), Mary Scruggs (CASGEM Program Manager), Carmel Brown (Executive Policy Advisor), and via

Mr. Zaffar Eusuff  
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phone Paula Landis (Chief of IRWM). As documented in the minutes, Tracie Billington stated that for specific projects in the grant (such as a specific recycled water project that was sited outside of the East Bay Plan Basin), that project would be deemed eligible for IRWM funding with respect to CASGEM compliance as long as the project does not overlie a noncompliant basin.

The DERWA Phase 3 Recycled Water Expansion Project does not overlie a CASGEM noncompliant basin. For that reason and based on the communications with DWR staff referenced above, the project should be eligible for funding. If EBMUD had been informed by DWR back in August 2014 that the DERWA project would not be eligible for funding due to CASGEM noncompliance for the north subbasin of the East Bay Plain Basin, EBMUD could have had time to pursue other options to ensure the eligibility of the DERWA project. However, EBMUD relied on DWR's confirmation that a project such as the DERWA project would be eligible for funding and did not take further immediate action.

Once the draft funding recommendations was announced, Richard Sykes, EBMUD's Director of Natural Resources, called and emailed Gary Bardini on September 24, 2014. Richard stated that we specifically discussed the DERWA project with DWR on August 22, 2014, and were assured by DWR that the DERWA project would not be rejected due to CASGEM compliance issues. DWR only recommended one edit to the August 22 meeting minutes, and it was not related to this topic.

DERWA is a regional partnership with the goal of maximizing recycled water deliveries in its project service area, which is especially critical in times of drought such as the current drought in California. The Phase 3 Recycled Water Expansion will increase recycled water deliveries to San Ramon and Dublin, and offset the use of potable water. It is a regional project and provides drought relief, which is exactly the type of project suitable for funding under the 2014 drought relief round.

EBMUD is extremely disappointed that the DERWA project was disqualified from IRWM drought grant funding in the draft recommendations. We believe that DWR is incorrect in disqualifying this project and should reverse its draft decision and fully fund the DERWA project. Thank you for your consideration. If you have any questions, please contact Richard Sykes at (510) 287-1629 or [rsykes@ebmud.com](mailto:rsykes@ebmud.com).

Sincerely,



Alexander R. Coate  
General Manager

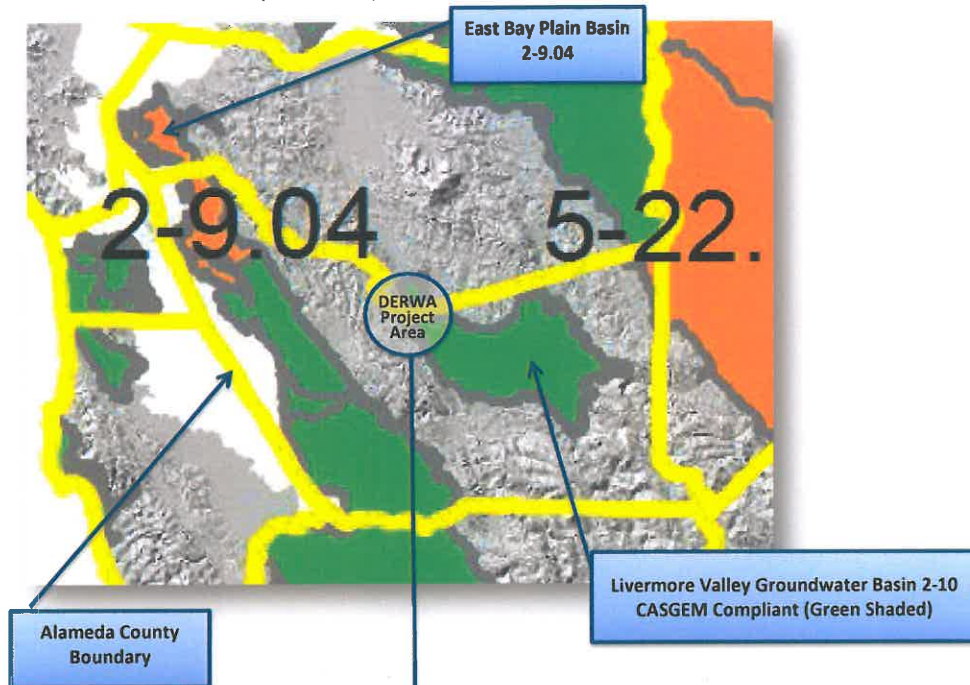
cc: Jennifer Krebs, ABAG  
Martha Guzman-Aceves, Governor's Office  
James B. Bewley, DERWA  
Bert Michalczyk, DSRSD

Attachments

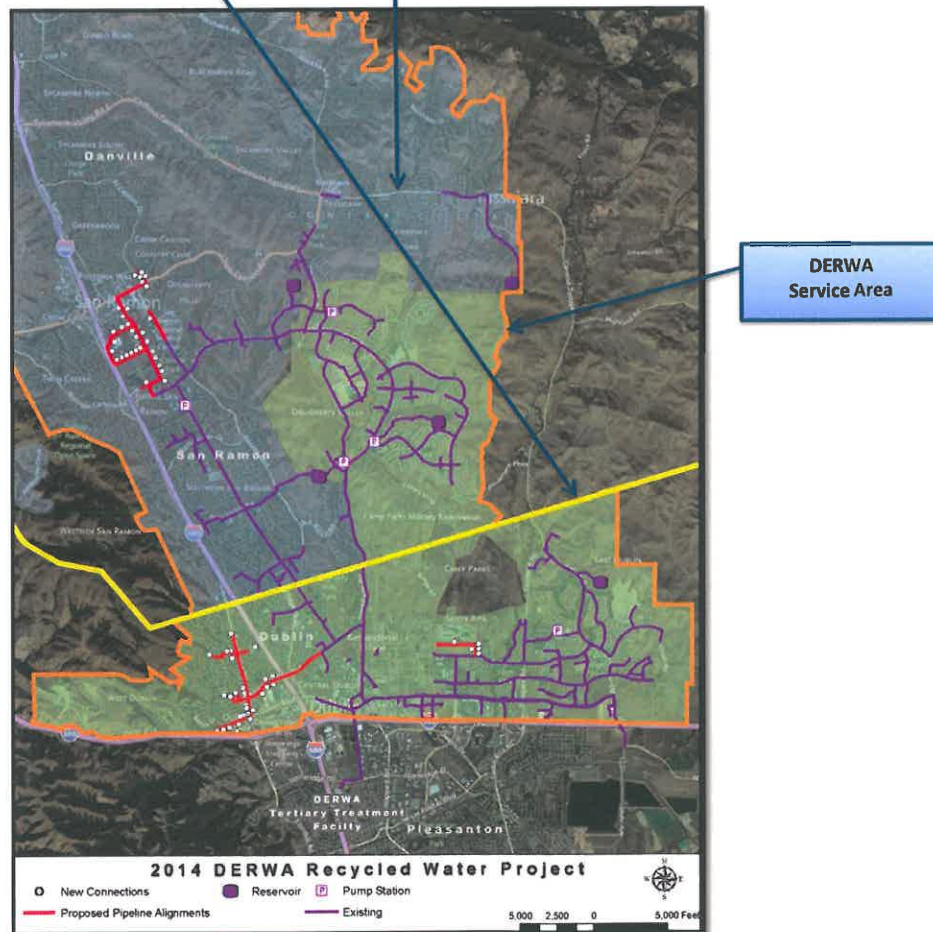
**FIGURE 1**

This attachment illustrates the location of the DERWA Phase 3 Recycled Water Project Area relative to the CASGEM Compliant Livermore Valley Groundwater Basin (Basin Number 2-10) and the East Bay Plain Basin (Basin Number 2-9.04).

**CASGEM COMPLIANCE (Ref. = DWR)**



**DETAILED PROJECT MAP (As included in grant application)**



**From:** Scruggs, Mary@DWR [mailto:Mary.Scruggs@water.ca.gov]  
**Sent:** Friday, August 22, 2014 4:01 PM  
**To:** Francis, Thomas; Bardini, Gary@DWR; Billington, Tracie@DWR; Brown, Carmel M.@DWR; Tognolini, Michael; Sykes, Richard  
**Cc:** Nordberg, Mark@DWR; Harris, Richard; Hu, Linda  
**Subject:** RE: Meeting Notes - DWR/EBMUD Meeting regarding CASGEM matters & drought round funding

Tom and Paula,

I am forwarding the meeting minutes from this morning's meeting between DWR and EBMUD. Tom did not have Paula's email address.

With respect to the notes, I have one change (shown in red and underlined) in the sentence below.

Ms. Scruggs indicated a face to face meeting / sit down with DWR Region Office staff was acceptable.

Thanks you for the opportunity to review the meeting notes. If you have any question or need more information regarding the CASGEM program, please feel free to contact me.

Mary Scruggs, CEG  
Supervising Engineering Geologist  
California Department of Water Resources  
Division of Integrated Regional Water Management  
Regional Planning Branch

916-654-1324  
mailto: [Mary.Scruggs@water.ca.gov](mailto:Mary.Scruggs@water.ca.gov)

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**From:** Francis, Thomas [mailto:tfrancis@ebmud.com]  
**Sent:** Friday, August 22, 2014 3:25 PM  
**To:** Bardini, Gary@DWR; Billington, Tracie@DWR; Brown, Carmel M.@DWR; Scruggs, Mary@DWR; Tognolini, Michael; Sykes, Richard  
**Cc:** Nordberg, Mark@DWR; rharris@ebmud.com; Hu, Linda  
**Subject:** Meeting Notes - DWR/EBMUD Meeting regarding CASGEM matters & drought round funding  
**Importance:** High

**To all attendees (cc to others as an FYI; + please forward to Ms. Landis as I do not have her email address):**

I've drafted brief minutes from the notes that I was taking at today's meeting between DWR and EBMUD. The meeting, as requested by EBMUD, was to discuss matters surrounding California Statewide Groundwater Elevation Monitoring (CASGEM) compliance as it relates to the East Bay Plain Groundwater Basin (EBPB), and specifics regarding drought funding eligibility associated with CASGEM compliance and/or non-compliance.

**Please review the information below, and if you believe my summary is in error, please respond with a suggested correction and/or edition.**

## **1. Introductions**

Introductions were made.

**EBMUD staff in attendance** = Richard Sykes, Director of Water and Natural Resources; Mike Tognolini, Manager of Water Supply Improvements; Tom Francis, Senior Civil Engineer.

**DWR staff in attendance** = Gary Bardini, Deputy Director; Tracie Billington, Financial Assistance Branch Chief; Mary Scruggs, CASGEM Program Manager; Carmel Brown, Executive Policy Advisor; and (via phone) Paula Landis, chief of IRWM

**The following conversation took place following staff introductions:**

- DWR noted that there is an increasing importance being placed at the state level on groundwater matters, as is evident within the year's current legislative effort (pending groundwater legislation and issues surrounding groundwater resource management during this time of historic drought)
- EBMUD acknowledged the importance of groundwater within the State, and the District's support of current legislation (including our desire to see language inserted in the bills that are moving forward in the legislature that would update bulletin 118 groundwater basin boundaries and reprioritize basins that are further divided

## **2. Southern and Northern Subbasins of the East Bay Plain Basin**

- a. Background
- b. EBMUD's East Bay Plain Basin – Southern Subbasin efforts
- c. Northern Subbasin Concerns

### **Discussion.**

EBMUD staff shared with DWR the efforts underway within the southern ½ of the East Bay Plain Basin. EBMUD noted that it had developed an ASR program and prepared a Groundwater Management Plan for the EBPB Southern Subbasin (adopted in 2012) and further that it had recently been designated as the CASGEM entity for the EBPB Southern Subbasin.

EBMUD staff shared their concerns regarding the Northern portion of the EBPB. It was noted that there is not a deep aquifer present, that shallow aquifers were heavily contaminated; that no public water supply wells were present, and that other entities (including the Regional Water Quality Control Board) have documents detailing the lack of water supply potential within the northern portion of the EBPB. EBMUD reported the basin held no potential from a water supply perspective, and could not readily justify



investing monitoring resources into a basin with no potential for municipal groundwater development.

DWR staff indicated it was following direction from the Legislature to prioritize and monitor groundwater basin elevations. While there may be no water supply wells present, it was suggested that EBMUD could gain access to contaminant wells and thereby supply groundwater elevation data. DWR staff indicated that other entities in the State have access to superfund/ contaminant wells to address CASGEM compliance.

In terms of helping to identify possible wells, EBMUD requested a meeting with DWR staff to identify possible well locations and owners. Ms. Scruggs indicated a face to face meeting / sit down with her staff was acceptable.

### **3. Funding Matters / Drought \$**

- a. CASGEM reference in PSP for drought funding
- b. Projects included by EBMUD
  - Recycled Water Projects
  - Water Conservation Efforts

**(See discussion below under Topic 4)**

### **4. Discussion**

- a. EBMUD eligibility for drought funding

EBMUD has two types of projects in the application as submitted to DWR for drought funding (as submitted to DWR by the Bay Area Integrated Regional Water Management team / partner entities). EBMUD staff present asked DWR the following: Since EBMUD is in CASGEM compliance for the suitable portion of the EBPB (the Southern Subbasin), are we eligible for drought grant funding

**Tracie Billington stated that for specific projects in the grant (such as a specific recycled water project that was sited outside of the EBPB), that project would be deemed eligible – projects that overlaid a “non complaint” basin would not be eligible. For general programs (such as perhaps a District-wide water conservation program), that would be deemed ineligible for drought funding.**

**EBMUD indicated that a recycled water project was included for drought funding, but that particular project is located in San Ramon, outside of the EBPB and overlying a compliant basin. Hence based on DWR’s criteria, it remains eligible for drought grant funding. District-wide water conservation efforts may not be eligible if part of the grant funds were to be used in the area overlying the East Bay Plain, since it is currently considered not compliant with CASGEM**

Ms. Billington noted that funding decisions will be released shortly, and entities will have 15 days to respond to any decision as made by DWR regarding excluding funds.

Ms. Scruggs noted that to be viewed “in compliance”, an entity would have had to commit to monitoring the basin, and further be well underway with regard to submitting supporting documentation (such as monitoring wells / well construction data / etc. ). EBMUD could not simply propose to be the CASGEM entity for the northern subbasin and indicate that they “plan” to install wells at some future date in parks / properties – much more concrete data would be needed for DWR’s CASGEM staff to support a statement that “EBMUD is in compliance for the EBPB Northern Subbasin.

## **5. Other / Next Steps**

- EBMUD will arrange a separate (face to face) meeting with DWR staff (Mark Nordberg) to review, at DWR’s offices, well information that could be used to approach owners of contaminant wells in the Northern Subbasin of the EBPB.
- EBMUD will continue to work with the Counties to determine if CASGEM compliance can be addressed.
- EBMUD will work with its legislative reps on “clean up” legislation in 2015 regarding CASGEM and other groundwater management legislation that will help refine monitoring and management of basins to those that offer a water supply potential (vs. those that show no opportunity for such use)
- EBMUD will await funding decisions by DWR regarding the drought grant \$, and respond as appropriate within the comment window provided

**From:** Sykes, Richard  
**Sent:** Wednesday, September 24, 2014 5:00 PM  
**To:** Gary.Bardini@water.ca.gov  
**Cc:** Coate, Alexander; Bert Michalczyk (michalczyk@dsrsd.com)  
**Subject:** FW: Meeting Notes - DWR/EBMUD Meeting regarding CASGEM matters & drought round funding  
**Importance:** High

Hi Gary,

I left you a voice mail this afternoon about a DWR decision on the Prop 84 drought funding that is significantly distressing to EBMUD and Dublin San Ramon Services District. Our joint project was rejected for funding in this round, apparently due to non-compliance with CASGEM. We specifically discussed this with you and some of your staff at our meeting in your offices on August 22<sup>nd</sup>. A primary purpose of the meeting was to ensure that our project application would not be rejected due to CASGEM issues. We certainly would have modified our application had your direction been different. Please see the highlighted section below from our meeting. We only received one edit from your staff on the meeting minutes and it was not related to the highlighted sections so we used the meeting as the basis for finalizing our application.

The bottom line is that the proposed project is not within a basin that is non-compliant with CASGEM and we were lead to believe that as such it would be eligible for funding. The project would provide immediate drought relief in an area of severe water shortages and it should be funded.

EBMUD and DSRSD will certainly have someone present at DWR's public work on Round 3 funding next Tuesday and we will be vigorously lobbying to reverse this draft decision by DWR. However, we will be working all other available channels to get the draft decision reversed.

Please let me know as soon as possible any suggestions you have regarding how to address this.

Thanks,

Richard

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**Sent:** Friday, August 22, 2014 3:25 PM  
**To:** Bardini, Gary@DWR ([Gary.Bardini@water.ca.gov](mailto:Gary.Bardini@water.ca.gov)); [tracieb@water.ca.gov](mailto:tracieb@water.ca.gov); Brown, Carmel M.@DWR ([Carmel.Brown@water.ca.gov](mailto:Carmel.Brown@water.ca.gov)); [Mary.Scruggs@water.ca.gov](mailto:Mary.Scruggs@water.ca.gov); Tognolini, Michael; Sykes, Richard  
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